

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application for Reissue of:
Patent No. 5,602,905

Patentee: RICHARD P. METTKE

Issued: February 11, 1997

For: ON-LINE COMMUNICATION
TERMINAL/APPARATUS

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Attorney Docket No.: 6388.005

REISSUE APPLICATION TRANSMITTAL LETTER

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

CERTIFICATE OF MAILING

37 C.F.R. 1.10

I hereby certify that this correspondence is being deposited with the U. S. Postal Service as Express Mail, under Express Mail No. EL157449783US addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, Attn: BOX 7, on the date indicated below.

8-1798
Date

Reginald Z. Furd
Signature

Enclosed for filing please find the Reissue Application papers of Richard P. Mettke.

This application is a reissue of U.S. Patent No. 5,602,905 issued on February 11, 1997 for On-line Communication Terminal/Apparatus to the above named inventor. The following documents are enclosed:

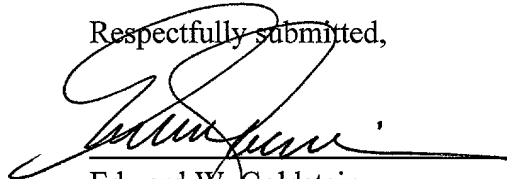
1. Reissue Declaration of Richard P. Mettke pursuant to 37 C.F.R. § 1.63 and 1.175(a);
2. Power of Attorney;
3. Offer to Surrender;
4. Order for Title Report;
5. Information Disclosure Statement (including PTO Form 1449A/PTO and copies of references cited thereon);
6. Postcard Receipt;
7. A paper entitled "Amendment" which includes proposed Reissue Claims;
8. Statement Claiming Small Entity Status;
9. A paper entitled "Notice of Litigation;"
10. Copy of U.S. Patent 5,602,905 which has 5 pages of specifications (including abstract, drawings, and detailed description of the invention) and 5 claims; and

11. A check in the amount of \$461.00 (filing fee, \$395.00, reissue independent claims over original patent, \$41.00, Abstract of title, \$25.00).

If for any reason the check is missing or insufficient, the Commissioner is authorized to charge any additional fees which may be required (or credit any overpayment) to Deposit Account No. 20-1299; Order No. 6388.005/EWG.

If any additional informalities are identified by the Examiner, please contact the undersigned attorney at (713) 877-1515.

Respectfully submitted,



Edward W. Goldstein

Reg. No. 22945

TOBOR & GOLDSTEIN, L.L.P.

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Telephone: 713/877-1515

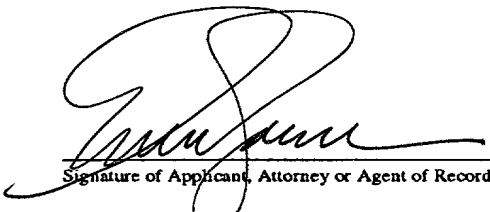
Facsimile: 713/877-1145

F:\CLIENT\6\6388\005\PTO\TRANSAPP.AFM

6388.005

**>PTO/SB/56 (6-95)

Approved for use through 05/31/96. OMB 0651-0033
Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE<

REISSUE APPLICATION FEE DETERMINATION RECORD						Docket Number (Optional) 6388.005		
Claims as Filed - Part 1								
Claims in Patent	For	Number Filed in Reissue Application	(3) Number Extra	Small Entity		Other than a Small Entity		
				Rate	Fee	Rate	Fee	
(A) 5	Total Claims (37 CFR 1.16(i))	(B) 9	**** 0 =	x \$__ =		or	x \$__ =	
(C) 2	Independent Claims (37 CFR 1.16(i))	(D) 3	* 1 =	x \$41 =	41		x \$__ =	
Basic Fee (37 CFR 1.16(h))					\$395		\$__	
Total Filing Fee					\$436	OR	\$	
Claims as Amended - Part 2								
	(1) Claims Remaining After Amendment		(2) Highest Number Previously Paid For	(3) Extra Claims Present	Small Entity		Other than a Small Entity	
					Rate	Fee	Rate	Fee
Total Claims (37 CFR 1.16(j))	***	MINUS	**	=	x \$__ =		or	x \$__ =
Independent Claims (37 CFR 1.16(i))	***	MINUS	*****	=	x \$__ =			x \$__ =
Total Additional Fee					\$	OR	\$	
<p>* If the entry in (D) is less than the entry in (C), Write "0" in column 3.</p> <p>** If the "Highest Number of Total Claims Previously Paid For" is less than 20, Write "20" in this space.</p> <p>*** After any cancellation of claims</p> <p>**** If "A" is greater than 20, use (B - A); if "A" is 20 or less, use (B - 20).</p> <p>***** "Highest Number of Independent Claims Previously Paid For" or Number of Independent Claims in Patent (C).</p> <p><input type="checkbox"/> Please charge Deposit Account No. _____ in the amount of _____. A duplicate copy of this sheet is enclosed.</p> <p><input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees under 37 CFR 1.16 or 1.17 which may be required, or credit any overpayment to Deposit Account No. <u>20-1299</u>. A duplicate copy of this sheet is enclosed.</p> <p><input checked="" type="checkbox"/> A check in the amount of \$ <u>461.00</u> to cover the filing / additional fee is enclosed.</p>								
<u>8/17/98</u> Date		 Signature of Applicant, Attorney or Agent of Record Edward W. Goldstein Typed or printed name						

**>Burden Hour Statement: This form is estimated to take 5 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.<

United States Patent [19]

Mettke

[54] ON-LINE COMMUNICATION
TERMINAL/APPARATUS

[76] Inventor: Richard P. Mettke, 620 Shannahan Dr.,
Weaver, Ala. 36277

[21] Appl. No.: 376,247

[22] Filed: Jan. 23, 1995

[51] Int. Cl.⁶ H04M 11/00

[52] U.S. Cl. 379/96; 379/91

[58] Field of Search 379/100, 91, 96,
379/97, 98, 93, 94, 144, 155; 358/401,
442; 235/380, 381, 382; 364/401, 408

[56] References Cited

U.S. PATENT DOCUMENTS

4,902,881	2/1990	Janku	235/380
5,008,928	4/1991	Cleghorn	379/144
5,218,633	6/1993	Clagett et al.	379/96

2025 RELEASE UNDER E.O. 14176

US005602905A

[11] Patent Number: 5,602,905
[45] Date of Patent: Feb. 11, 1997

5,247,575 9/1993 Sprague et al 379/100
5,272,747 12/1993 Meads 379/144
5,333,181 7/1994 Biggs 379/144
5,393,964 2/1995 Hamilton et al. 379/91
5,396,546 3/1995 Remillard 379/96

Primary Examiner—Curtis Kuntz

Assistant Examiner—Stella L. Woo

[57] ABSTRACT

A "pay-as-you-use" communication terminal capable of interfacing with all major commercial on-line communications services (I.E. American On-Line, Prodigy, CompuServe, Genie, Delphi, Eworld). Users can receive a hard copy of any activity that they conduct from the terminal through the co-located printer. Payment of services will be made by credit card, using a "magnetic swipe" system included as part of the terminal system. Users will be charged for use of the system as well as normal telephone charges.

5 Claims, 1 Drawing Sheet

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ON-LINE COMMUNICATION
TERMINAL/APPARATUS

BACKGROUND—FIELD OF INVENTION

This invention relates to an electronic pay-as-you-use message terminal/apparatus capable of interfacing with all major commercial on-line services.

BACKGROUND—DESCRIPTION OF PRIOR
ART

In the past few years there has been a remarkable growth in the use of commercial on-line service providers (I.E. PRODIGY, COMPU SERVE, AMERICAN ON-LINE, and DELPHI) machines. The use of the above listed services are normally conducted in the home or office.

Individuals and businesses constantly draw from the wealth of data bases of information available from the commercial on-line services. Commercial on-line members also access the services for personal and leisure activities (I.E. play games, news or sports updates, weather reports, shopping, traveling, browsing ETC.) These services are generally accessed from fixed site locations at home or in the office. Although, portable terminals (lap top computers) with modems are available; they are often cumbersome and are not user friendly for a travelling business people or other users of commercial on-line services on the road.

There are various devices/apparatuses for conducting the operations/applications described previously. There is however, no one device/apparatus that brings these operations/applications together and offers their use on a pay-as-you-use basis. A listing of known prior art:

U.S. Pat. No. 4,092,527—A calculator with interchangeable keyboards having different preselected configurations of numeric and/or function keys.

U.S. Pat. No. 4,274,081—A data input apparatus including a keyboard and plurality of interchangeable mats which define the function of the 39 keyboard keys.

U.S. Pat. No. 4,374,381—A touch terminal which communicates and controls a microprocessor.

U.S. Pat. No. 4,482,955—A keyboard having an on board microprocessor for controlling keyboard functions.

U.S. Pat. No. 4,660,218—Automatic switch apparatus for automatically switching between a telephone set and a terminal device.

U.S. Pat. No. 5,334,823—Systems and methods for operating Data card terminals for transaction chargeback protection.

U.S. Pat. No. 5,235,680—Apparatus and method for communicating textual and image information between a host computer and remote display terminal.

As stated previously, the above cited prior art devices/apparatuses have provided the majority of the technical applications/capabilities for this on-line terminal; however none are brought together to provide for the pay-as-you-use applications/capabilities of this device/apparatus.

Accordingly, there is no one device/apparatus that allows a user, to access, on a pay-as-you-use basis, a commercial on-line service on an interactive basis. The terminals would be located in such diverse locations as airports, hotels, business centers, libraries, hospitals, shopping malls and other locations as appropriate.

SUMMARY OF THE INVENTION

The present invention disclosed herein comprises a system for accessing commercial on-line services on a pay-as-you-use basis. The system includes a Central Processing Unit (CPU), internal modem, monitor, printer, credit card reading swipe device and housing. Accordingly, besides the objects and advantages of this device/apparatus described previously in my application, several objects and advantages are (some restated):

- (a) Users can conveniently access commercial on-line services and the Internet at other locations other than from their fixed terminal at an office or home.
- (d) Users can receive a hard copy document from a laser printer of any activity that they conduct at the terminal.
- (e) Users will pay for the use of the terminal using a credit card swipe apparatus. The user will be charged for use of the terminal, telephone line use charges and additional charges by the commercial on-line service or internet provider.
- (f) Commercial on-line services will benefit greatly by the additional exposure/access of their services.
- (g) Users will have the convenience of having easy access to the services provided by the terminal at a reasonable price; negating the need for frequent travelers to unnecessarily carry around a cumbersome laptop terminal with accessories for conducting on-line activities.

BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 A typical functional embodiment is schematically illustrated by block diagram form in FIG. 1.

FIG. 2 A typical embodiment of the terminal is illustrated in diagram form in FIG. 2.

DETAILED DESCRIPTION OF THE INVENTION

A typical functional embodiment is schematically illustrated by block diagram form in FIG. 1. Numeral 2 generally indicates the Terminal device which is comprised of the monitor, keyboard w/mouse, central processing unit w/internal modem (14.4-28 BPS), integrating software, laser printer, credit card swiping device, telephone and telephone lines. Numeral 4 generally indicates the credit card processing service/center. Numeral 6 generally indicates the local telephone node/switching node. Numeral 8 generally indicates the feeder/access nodes for the commercial on-line service/Internet provider. Numeral 10 generally indicates the servicing telephone line.

"A typical embodiment of the terminal is illustrated in FIG. 2. Numeral 10 generally indicates the housing for the terminal. Numeral 11 generally indicates the monitor. Numeral 12 generally indicates the credit card reader swipe device. Numeral 13 generally indicates the keyboard. Numeral 14 generally indicates the printer paper discharge chute. Numeral 15 generally indicates the location of the printer behind the terminal's access door. Numeral 16 generally indicates the location of the CPU with internal modem behind the terminal's access door. Numeral 17 generally indicates the location of the access door."

"A representative CPU with internal modem, monitor and printer could be of the IBM AST series. A representative touch screen with controller could be of the series manufactured by Interaction Systems. A representative credit card reader could be the MAGTEK 21055002."

Interconnection and operability of the components is not discussed in greater detail since the technology is well known in prior art.

Accordingly, the reader will see that this invention has unlimited potential and promise in this ever emerging information age. The invention would be a convenience for business people and travelers providing easy access to on-line services that are quickly become the norm in day to day living. While particular embodiments of this invention have been described for purposes of illustration, these involve no limitations and the invention may be carried into practice by persons skilled in the art in a variety of ways without departing from its spirit or from the ambit of the claims.

I claim:

1. A public on-line, pay-as-you-use communications terminal comprising a housing, wherein said housing contain:

a central processing unit (CPU);

a telephone access node;

an internal modem coupled to the CPU and telephone access node;

a video display monitor coupled to the CPU;

a keyboard for providing user interface coupled to the CPU;

a credit card reader swipe device coupled to the CPU for accepting payment by a user for use of the terminal; means for accessing commercial on-line services and allow for user interaction;

software installed into the CPU to allow interface with commercial on-line service providers and credit card service centers;

a printer coupled to the CPU.

2. The terminal in accordance with claim 1 wherein said means for accessing includes a touch screen interface

attached to the monitor and further includes a touch screen means for accepting input information from said touch screen interface and modifying program execution accordingly.

5 3. The terminal in accordance with claim 1 also including, within said housing, program means for causing said printer to print a receipt or any other document available from a commercial on-line service.

10 4. The terminal in accordance with claim 1 wherein said housing includes a durable enclosure for the CPU, monitor, internal modem and printer, and a secured access door for service and repair.

15 5. A method of using a public on-line, pay-as-you-use terminal to access commercial on-line services comprising the steps of:

swiping a credit card through a credit card swipe device; if credit is denied, disallowing interaction; if credit is approved, receiving charge approval from a credit card center for use of the terminal; communicating said approval to CPU executing a main program; in response to input from a user who is responding to a selection of on-line services that are assessable and displayed on a monitor in communication with said CPU and, based on interaction between said user and said main program, controlling switching means with said CPU to provide communication between a telephone access node and a modem with a commercial on-line service; printing with a printer a hard copy of documents said user requires, said printer being in communication with the CPU; deactivating said CPU from commercial on-line service user interaction on appropriate input from said user; printing with said printer a billing statement.

* * * * *

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application for Reissue of:	§	
Patent No. 5,602,905	§	
	§	
Patentee: RICHARD P. METTKE	§	
	§	Attorney Docket No.: 6388.005
Issued: February 11, 1997	§	
	§	
For: ON-LINE COMMUNICATION	§	
TERMINAL/APPARATUS	§	
	§	

AMENDMENT

Applicant, Richard P. Mettke, submits the following Amendment.

IN THE CLAIMS

Applicant requests that reissue claims 6-9 be added to the reissue application.

6. A public on-line, pay-as-you-use communications terminal comprising a housing,

wherein the housing contains:

a central processing unit (CPU);

a telephone access node;

an internal modem coupled to the CPU and telephone access node;

a video display monitor coupled to the CPU;

a keyboard for providing user interface coupled to the CPU;

a credit card reader swipe device coupled to the CPU for accepting payment by a user for use

of the terminal;

means for accessing the Internet and allow for user interaction;

software installed into the CPU to allow interface with the Internet and credit card service centers; and
a printer coupled to the CPU.

7. The terminal of claim 6, wherein the means for accessing includes a touch screen interface attached to the monitor and further includes a touch screen means for accepting input information from the touch screen interface and modifying program execution accordingly.

8. The terminal of claim 6, further comprising, within the housing, program means for causing the printer to print a receipt or any other document available from the Internet.

9. The terminal of claim 6, wherein the housing includes a durable enclosure for the CPU, monitor, internal modem and printer, and a secured access door for service and repair.

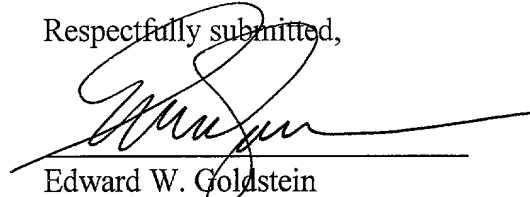
REMARKS

Reissue claims 1-9 are pending. Reissue claims 1-5 remain unchanged from claims 1-5 in U.S. Patent No. 5,602,905. Applicant has added reissue claims 6-9. Reissue claims 1-5 are directed to a communications terminal for accessing commercial on-line services such as America On-Line. Reissue claims 6-9 are directed to a communications terminal for accessing the Internet. Reissue claims 6-9 have been submitted because of the differences between commercial on-line services and the Internet as stated by the Examiner during prosecution of the application which issued as U.S. Patent No. 5,602,905. Specifically, the Examiner stated “‘commercial on-line service’ is not

equivalent to 'Internet provider.'" Office Action dated April 27, 1995 in Application Serial No. 08/376,247, page 8. Accordingly, Applicant submits reissue claims 6-9 directed to a communications terminal for accessing the Internet.

Applicant respectfully requests that reissue claims 1-9 be allowed and a Notice of Allowance issued.

Respectfully submitted,



Edward W. Goldstein
Reg. No. 22945
TOBOR & GOLDSTEIN, L.L.P.
1360 Post Oak Blvd., Suite 2300
Houston, TX 77056
Telephone: 713/877-1515
Facsimile: 713/877-1145

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application for Reissue of: §
Patent No. 5,602,905 §
Patentee: RICHARD P. METTKE §
Issued: February 11, 1997 § Attorney Docket No.: 6388.005
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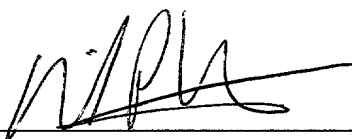
OFFER TO SURRENDER

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In accordance with the provisions of 37 C.F.R. § 1.171 and 37 C.F.R. § 1.178, the undersigned patentee of Letters Patent for On-Line Communication Terminal/Apparatus, U.S. Patent No. 5,602,905, issued on February 11, 1997, hereby offers to surrender the original Letters Patent.

A request for Order for Title Report as required for such application is filed concurrently herewith.

By: 
Richard P. Mettke

Date: 8-13-98
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application for Reissue of:	§	
Patent No. 5,602,905	§	
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Patentee: RICHARD P. METTKE	§	
	§	Attorney Docket No.: 6388.005
Issued: February 11, 1997	§	
	§	
For: ON-LINE COMMUNICATION	§	
TERMINAL/APPARATUS	§	
	§	

ORDER FOR TITLE REPORT

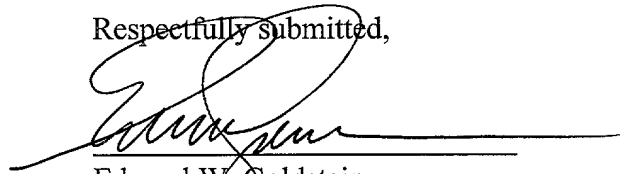
Assistant Commissioner of Patents
Washington, D.C. 20230

Dear Sir:

In accordance with the provisions of 37 C.F.R. § 1.171, please prepare a title report in the matter of U.S. Patent No. 5,602,905, issued on February 11, 1997, to be placed in the Official files in the above-identified application for reissue of said patent. Title in the name of Richard P. Mettke should be reflected in the Abstract of Title as that is he is the inventor and owner of this patent, and the patent has not been assigned.

In accordance with 37 C.F.R. § 1.19(b)(4) our check including the amount of \$25.00 is enclosed.

Respectfully submitted,



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6388.005-PTO-ABSTRACT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application for Reissue of: §
Patent No. 5,602,905 §
§
Patentee: RICHARD P. METTKE §
§ Attorney Docket No.: 6388.005
Issued: February 11, 1997 §
§
For: ON-LINE COMMUNICATION §
TERMINAL/APPARATUS §
§

**INFORMATION DISCLOSURE STATEMENT
UNDER 37 C.F.R. §§ 1.97 AND 1.98**

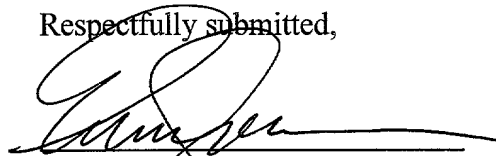
Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In compliance with the duty of disclosure under 37 C.F.R. §1.56, it is respectfully requested that this Information Disclosure Statement be entered and the references listed on attached Form PTO-1449 be considered by the Examiner and made of record. Copies of the listed references are enclosed for the convenience of the Examiner.

In accordance with 37 C.F.R. §1.97(g-h), this Information Disclosure Statement is not to be construed as a representation that a search has been made or construed as an admission that the information cited herein is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

Respectfully submitted,



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Facsimile: 713/877-1145

FORM 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT (use as many sheets as necessary)	Complete if Known	
	Application Number	
	Filing Date	
	First Named Inventor	Richard P. Mettke
	Group Art Unit	2608
	Examiner Name	
		Attorney Docket Number 6388.005

Sheet 2 of 3

FOREIGN DOCUMENTS							
Examiner Initials*	Cite No.	Foreign Patent Document			Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	Translation?
		Office	Number	Kind Code (if known)			

OTHER DOCUMENTS			
Examiner Initials*	Cite No.	Include name of author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.) date, page(s), volume-issue number(s), publisher, city and/or country where published.	Translation?
	AB	TouchFax Network Topography Diagram, copyright 1991	
	AC	Affidavit of John F. Murphy and letters regarding offers for sale of TouchNet Public Access Terminals dated June 11, 1992 and July 13, 1993	
	AD	TouchFax advertisement for public facsimile systems, copyright 1990	
	AE	TouchFax advertisement for TF700 Public Communications Terminal, copyright 1991	
	AF	TouchFax advertisement for TF700 Public Communications Terminal, undated	
	AG	TouchFax advertisement for TF750 Public Communications Terminal, undated	
	AH	TouchFax advertisement for TF400 Public Communications Terminal, copyright 1992	
	AI	TouchFax advertisement for TF450 Public Communications Terminal, undated	
	AJ	ALLEN WEINER, Article entitled: TouchFax Provides The Ultimate In Place-Based Interactivity, October 1992	
	AK	TouchFax Brochure entitled Multi-Media Interactive Terminal Location Opportunity, undated	
	AL	BRIAN KABERLINE, Article entitled TouchFax Keeps ringing Up Public Fax Machine Orders, Kansas City Business Journal, Vol. 11, Number 2, October 2-October 8, 1992	
	AM	TouchFax advertisement entitled The Future Mad Simple, undated	
	AN	Invoices for audio-visual services rendered to TouchFax, May 12, 1993 and May 31, 1993	

Examiner Signature		Date Considered	
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

FORM 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT (use as many sheets as necessary)	Complete if Known	
	Application Number	
	Filing Date	
	First Named Inventor	Richard P. Mettke
	Group Art Unit	2608
	Examiner Name	
	Attorney Docket Number	6388.005

Sheet 3 of 3

	AO	Invoice for audio-visual services rendered to TouchFax, May 24, 1993	
	AP	Invoices for advertising services rendered to TouchFax, September 2, 1993, October 5, 1993, and November 9, 1993	
	AQ	Mutual Nondisclosure Agreement, September 2, 1992	
	AR	Letter to TouchFax Information Systems, Inc. from Flying J Inc., September 16, 1992	
	AS	National Account Program--Software License Agreement, February, 1993	
	AT	National Account Program--Equipment Purchase Agreement, February, 1993	
	AU	Facsimile regarding TRIP_RT and SCANLOAD, dated September 17, 1993	
	AV	Facsimile regarding R TRIP Routine Information, dated September 9, 1993	
	AW	Various Screen Shots regarding steps taken for Routine Information from Ogden, Utah to Des Moines Iowa, undated	
	AX	Invoices for TF450 Public Fax Terminal sold by TouchFax Information Systems, Inc., June 30, 1993 and September 28, 1993	
	AY	TON Services Estimated Rollout Schedule, June 28, 1993	
	AZ	TON Services, Inc. Installations as of 5/31/98, including date installed	
	BA	COLIN M. WRIGHT, Article entitled Airport Kiosk Systems Requirements Statement, August 6, 1992	
	BB	Letter to Dean Vermaire regarding Envoy100 Kiosks, November 5, 1992	
	BC	Letter to Dean Vermaire Logon Script for Envoy100 Access, September 2, 1992	
	BD	Software License Agreement, September 22, 1992	
	BE	Videotape entitled: TouchFax Information Systems Inc. TouchFax America, May 14, 1993	
	BF	Defendant's Answer to Plaintiff's Interrogatory No. 1, Litigation captioned Richard P. Mettke v. Touchnet Information Systems, Inc., Civ. Action No. 98-PT-0596 in the United States District Court for the Northern District of Alabama	
	BG	Deposition of Daniel J. Toughey, Litigation captioned Richard P. Mettke v. Touchnet Information Systems, Inc., Civ. Action No. 98-PT-0596 in the United States District Court for the Northern District of Alabama	
	BH	Deposition of John F. Murphy, Litigation captioned Richard P. Mettke v. Touchnet Information Systems, Inc., Civ. Action No. 98-PT-0596 in the United States District Court for the Northern District of Alabama	

F:\CLIENT\6\6388\005\PTO\1449 PTO

Examiner Signature		Date Considered	
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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Patent No. 5,602,905	§	
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Patentee: RICHARD P. METTKE	§	
	§	Attorney Docket No.: 6388.005
Issued: February 11, 1997	§	
	§	
For: ON-LINE COMMUNICATION	§	
TERMINAL/APPARATUS	§	
	§	

NOTICE OF LITIGATION

Pursuant to §§ 1442.04 and 2000.06(c) of the Manual of Patent Examining Procedure, Applicant for Reissue Patent, Richard P. Mettke ("Mettke") files this Notice of Litigation involving Letters Patent No. 5,602,905.

Mettke has filed suit against Touchnet Information Systems, Inc., Hewlett Packard Company, and North Communications, Inc. in the United States District Court for the Northern District of Alabama alleging Touchnet Information Systems, Inc., Hewlett Packard Company, and North Communications, Inc. have infringed one or more claims of Letters Patent No. 5,602,905. Copies of the Complaints are attached hereto as Exhibit A. Mettke and Hewlett Packard Company have entered into a settlement agreement and Mettke has dismissed its causes of action against Hewlett Packard Company with prejudice.

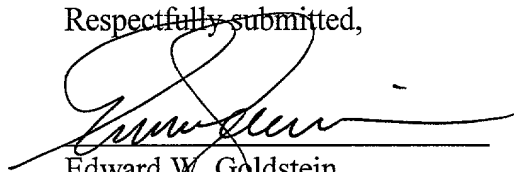
In defense of Mettke's claim for patent infringement, the remaining Defendants, Touchnet Information Systems, Inc. and North Communications, Inc. have alleged Letters Patent No. 5,602,905 is invalid under 35 U.S.C. § 102, 35 U.S.C. § 103 and 35 U.S.C. § 112. Copies of the Answers are attached hereto as Exhibit B.

Discovery has been undertaken in the suit against Touchnet Information Systems, Inc.

Copies of all available depositions, interrogatories with answers, and requests for production are available to the Examiner at the Examiner's request.

In the near future, Mettke will be filing a Motion to Stay the litigation proceedings until after the prosecution of the above-referenced Reissue application. Regardless of whether Mettke's Motion to Stay the litigation proceedings is granted by the Court, Mettke respectfully requests that the application for Reissue Patent be examined at this time. Mettke will notify the Commissioner of any change in the status of the litigation as required by the Manual of Patent Examining Procedure.

Respectfully submitted,



Edward W. Goldstein

Reg. No. 22,945

TOBOR & GOLDSTEIN, L.L.P.

1360 Post Oak Blvd., Suite 2300

Houston, TX 77056

Telephone: 713/877-1515

Facsimile: 713/877-1145

F:\CLIENT\616388\005\PTO\LITIGAT.NOT

Figure 1

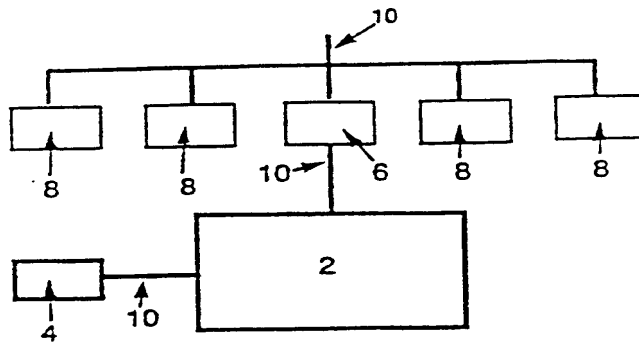
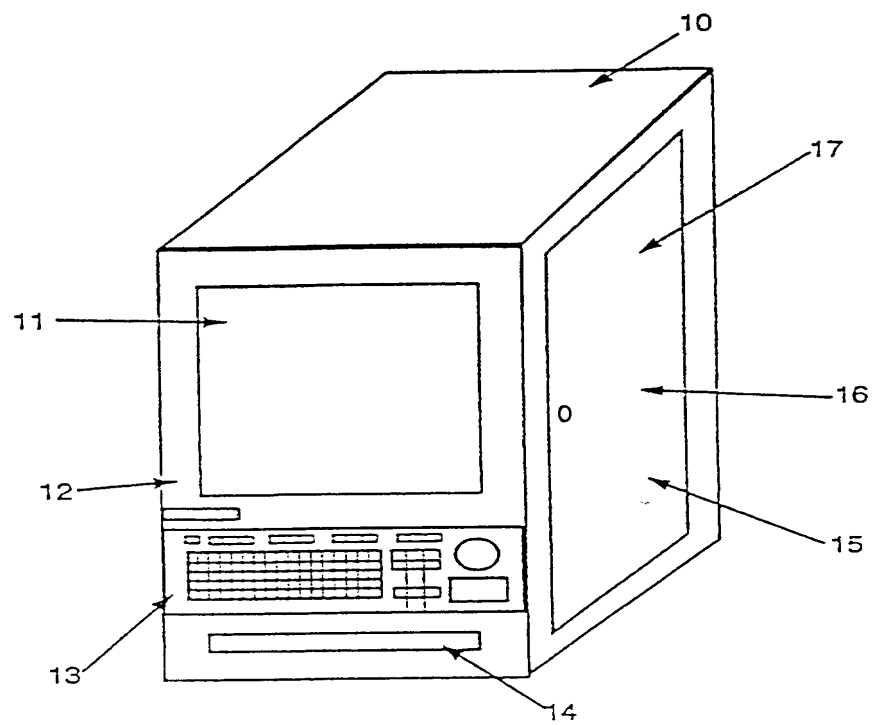
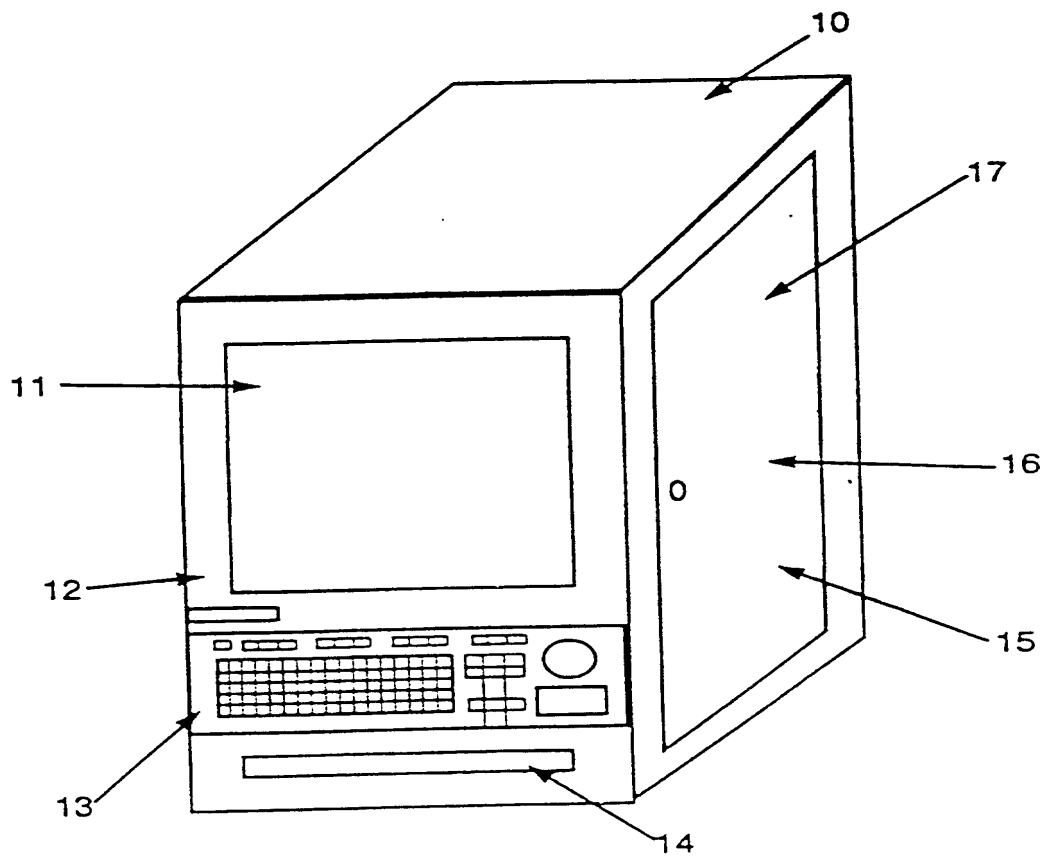


Figure 2



CANNED 10



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application for Reissue of:	§	
Patent No. 5,602,905	§	
Patentee: RICHARD P. METTKE	§	
	§	Attorney Docket No.: 6388.005
Issued: February 11, 1997	§	
	§	
For: ON-LINE COMMUNICATION	§	
TERMINAL/APPARATUS	§	
	§	

REISSUE DECLARATION PURSUANT TO 37 C.F.R. §§ 1.63 and 1.175

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

As a below named inventor, I hereby declare:

1. My residence, post office address and citizenship are as stated below next to my name.
2. I believe I am the original, first and sole inventor of the subject matter which is claimed in original Letters Patent No. 5,602,905 granted February 11, 1997, based upon Application Serial No. 376,247 filed January 23, 1995 and to be the original, first and sole inventor of the subject matter of the invention claimed in this application for a reissue patent being filed concurrently herewith.
3. I have reviewed and understand the contents of the specification, including the claims, of this reissue application.
4. I do not know and do not believe that said invention was ever known or used in the United States before my invention thereof.

RECEIVED TELETYPE

5. I believe the original patent to be wholly or partly inoperative or invalid by reason of me claiming less than I had the right to claim in the patent because claims directed to my on-line communication terminal/apparatus for accessing the Internet were inadvertently omitted. I prosecuted the application which issued as Letters Patent No. 5,602,905 *pro se*. In the first Office Action, the Examiner objected to the phrase "commercial on-line service/Internet" because it was vague and indefinite as to which limitation defines the scope and breadth of the claim. The Examiner also stated that "commercial on-line services" is not equivalent to "Internet provider." In view of the Examiner's remarks, I mistakenly removed the word "Internet" from the claims without submitting additional claims directed to an on-line communication terminal/apparatus for accessing the Internet. In error, I believed the Examiner's remarks meant that claims directed to accessing the Internet should not be submitted simultaneously with claims directed to accessing commercial on-line services. Accordingly, I mistakenly claimed less than I had a right to claim by not submitting additional claims directed to on-line communication terminal/apparatus for accessing the Internet. The specification certainly provides support for these amendments. For instance, please see col. 2, line 12.

6. The error that may render this patent wholly or partly inoperative arose entirely from inadvertence, accident, and mistake, and without any fraudulent and/or deceptive intent on my part or, on my best information and belief without any fraudulent and/or deceptive intent on the part of anyone else associated with me.

7. The error referred to above is remedied in this reissue application because the new claims in this application, 6-10, specifically recite a public on-line, pay-as-you-use communications terminal for accessing the Internet.

The following identifies all of the claims pending in this reissue application and the differences if any between these amended claims and the original claims of the patent: Original claims 1-5 are directed to a public on-line, pay-as-you-use communications terminal for accessing commercial on-line services and remain unchanged. New claims 6-10 are directed to a public on-line, pay-as-you-use communications terminal for accessing the Internet.

8. I acknowledge the duty to disclose to the Patent and Trademark Office all information, of which I am aware, which is material to patentability of this application as defined in Title 37, Code of Federal Regulations, § 1.56 and at this time bring the following U.S. patents, foreign patents and other publications to the attention of the U.S. Patent and Trademark Office:

U.S. Patents

4,902,881	2/1990 Janku
5,008,928	4/1991 Cleghorn
5,218,633	6/1993 Clagett et. al.
5,247,575	9/1993 Sprague et. al.
5,272,747	12/1993 Meads
5,333,181	7/1994 Biggs
5,393,964	2/1995 Hamilton, et. al.
5,396,546	3/1995 Remillard

The above listing of patents and publications are those that are cited on the face of U.S. Patent 5,602,905.

I also bring to the attention of the U.S. Patent and Trademark Office a copy of the deposition of Daniel J. Toughey, the representative of Touchnet Information Systems, Inc., and copies of the Exhibits attached thereto, a copy of the deposition of John F. Murphy, an employee of Touchnet Information Systems, Inc., a copy of Touchnet Information Systems, Inc.'s Answer to Plaintiff's Interrogatory No. 1, (Marked as Exhibit 2), as well as other documents produced by Touchnet

Information Systems, Inc., all of which Touchnet Information Systems, Inc. alleges invalidates Letters Patent No. 5,602,905:

TouchFax Network Topography Diagram, copyright 1991 (Marked Exhibit 3);

Affidavit of John F. Murphy and letters regarding offers for sale of TouchNet Public Access Terminals dated June 11, 1992 and July 13, 1993 (Marked Exhibit 4);

TouchFax advertisement for public facsimile systems, copyright 1991, (Marked Exhibit 6);

TouchFax advertisement for TF700 Public Communications Terminal (Marked Exhibit 7);

TouchFax advertisement for TF700 Public Communications Terminal, undated, (Marked Exhibit 8);

TouchFax advertisement for TF750 Public Communications Terminal, undated, (Marked Exhibit 9);

TouchFax advertisement for TF400 Public Communications Terminal, copyright 1992, (Marked Exhibit 10);

TouchFax advertisement for TF450 Public Communications Terminal, undated, (Marked Exhibit 11);

Article entitled: TouchFax Provides The Ultimate In Place-Based Interactivity, October 1992, (Marked Exhibit 12);

TouchFax Brochure entitled Multi-Media Interactive Terminal Location Opportunity, undated, (Marked Exhibit 13);

Article entitled TouchFax Keeps ringing Up Public Fax Machine Orders, Kansas City Business Journal, Vol. 11, Number 2, October 2-October 8, 1992, (Marked as Exhibit 14);

TouchFax advertisement entitled The Future Mad Simple, undated, (Marked as Exhibit 15);

Invoices for audio-visual services rendered to TouchFax, May 12, 1993 and May 31, 1993 (Marked as Exhibit 17);

Invoice for audio-visual services rendered to TouchFax, May 24, 1993 (Marked as Exhibit 18);

Invoices for advertising services rendered to TouchFax, September 2, 1993, October 5, 1993, and November 9, 1993 (Marked as Exhibit 19);

Mutual Nondisclosure Agreement, September 2, 1992, (Marked as Exhibit 21);

Letter to TouchFax Information Systems, Inc. from Flying J Inc., September 16, 1992;

National Account Program--Software License Agreement, February, 1993;

National Account Program--Equipment Purchase Agreement, February, 1993;

Facsimile regarding TRIP_RT and SCANLOAD, dated September 17, 1993;

Facsimile regarding R TRIP Routine Information, dated September 9, 1993;

Various Screen Shots regarding steps taken for Routine Information from Ogden, Utah to Des Moines Iowa, undated;

Invoice for TF450 Public Fax Terminal sold by TouchFax Information Systems, Inc.;

TON Services Estimated Rollout Schedule, June 28, 1993;

TON Services, Inc. Installations as of 5/31/98, including date installed;

Article entitled Airport Kiosk Systems Requirements Statement, August 6, 1992, (Marked as Exhibit 22);

Letter to Dean Vermaire regarding Envoy100 Kiosks, November 5, 1992, (Marked as Exhibit 23);

Letter to Dean Vermaire Logon Script for Envoy100 Access, September 2, 1992, (Marked as Exhibit 24);

Software License Agreement, September 22, 1992, (Marked as Exhibit 25);

U.S. Patent No. 4,359,631 issued to Lockwood, et. al., November 16, 1982 (Marked Exhibit 16).

9. Further, I bring to the attention of the examiner that U.S. Patent 5,602,905 is presently in litigation wherein it has been alleged that my invention was on sale and in public use more than one year prior to the effective filing date of my application, that the claims of U.S. Patent 5,602,905


are obvious under 35 U.S.C. § 103, and that the claims of U.S. Patent 5,602,905 are invalid under 35 U.S.C. § 112. The allegations and documents related to those allegations are described and identified in the Notice of Litigation filed concurrently with this reissue application.

10. I respectfully request that a reissue patent be granted to me for the invention or discovery described and claimed in said Letters Patent and in the foregoing specification and claims, and I subscribe my name to the foregoing petition, specification and claims and declaration and power of attorney.

11. I hereby direct that all correspondence and telephone calls be addressed to Edward W. Goldstein, Tobor & Goldstein, L.L.P., 1360 Post Oak Blvd., Suite 2300, Houston, Texas 77056, (713) 877-1515.

12. I declare further that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application of any patent issuing thereon.

Inventor's Full Name: RICHARD P. METTKE
(First) (Initial) (Last)

Inventor's Signature: 

Date: 8-13-98 Country of Citizenship: U.S.A.

Residence Address: 620 Shannahan Dr., Weaver, Alabama
(Include number, street name, city, state, and country)

Post Office Address: 620 Shannahan Dr., Weaver, Alabama
(Include number, street name, city, state, and country)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application for Reissue of: §
Patent No. 5,602,905 §
Patentee: RICHARD P. METTKE §
Issued: February 11, 1997 § Attorney Docket No.: 6388.005
For: ON-LINE COMMUNICATION §
TERMINAL/APPARATUS §

POWER OF ATTORNEY

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

The undersigned, patentee and owner of the above-referenced Letters Patent and inventor and applicant in the above-identified reissue application, hereby revoke any previous powers of attorney and appoint Edward W. Goldstein, Reg. No. 22,945, and Ben D. Tobor, Reg. No. 27,760, with full power of substitution and revocation, to prosecute this reissue application, to make alterations and amendments therein, to transact all business in the Patent and Trademark Office in connection therewith, and to receive the Letters Patent.

Please direct all communications as follows:

Edward W. Goldstein (EWG/6388.004)
Tobor & Goldstein, L.L.P.
1360 Post Oak Blvd., Suite 2300
Houston, Texas 77056
Telephone: (713) 877-1515
Facsimile: (713) 877-1145

Date: 8-13-98

By: 
Richard P. Mettke

**STATEMENT CLAIMING SMALL ENTITY STATUS
(37 CFR 1.9(f) & 1.27(b))--INDEPENDENT INVENTOR**

Docket Number (Optional)
6388.005

Applicant, Patentee, or Identifier: Richard P. Mettke

Application or Patent No.: Reissue of Patent No. 5,602,905

Filed or Issued: Issued February 11, 1997

Title: On-Line Communication Terminal/Apparatus

As a below named inventor, I hereby state that I qualify as an independent inventor as defined in 37 CFR 1.9(c) for purposes of paying reduced fees to the Patent and Trademark Office described in:

- ☐ the specification filed herewith with title as listed above.
☒ the application identified above.
☐ the patent identified above.

I have not assigned, granted, conveyed, or licensed, and am under no obligation under contract or law to assign, grant, convey, or license, any rights in the invention to any person who would not qualify as an independent inventor under 37 CFR 1.9(c) if that person had made the invention, or to any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

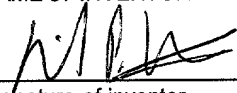
Each person, concern, or organization to which I have assigned, granted, conveyed, or licensed or am under an obligation under contract or law to assign, grant, convey, or license any rights in the invention is listed below:

- ☒ No such person, concern, or organization exists.
☐ Each such person, concern, or organization is listed below.

Separate statements are required from each named person, concern, or organization having rights to the invention stating their status as small entities. (37 CFR 1.27)

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

Richard P. Mettke
NAME OF INVENTOR


Signature of inventor

8-13-98
Date

NAME OF INVENTOR

Signature of inventor

Date

NAME OF INVENTOR

Signature of inventor

Date